



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,394	05/16/2006	Mark Richard Norton	P07962US02/MP	8530
881 7590 06/09/2009 STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314				
EXAMINER				
KING, FELICIA C				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
06/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,394

Applicant(s)

NORTON ET AL.

Examiner

FELICIA C. KING

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Applicant's Request for Reconsideration filed on 3/19/09.

The examiner notes that the Likens –Nickerson method is the most common and one of the oldest extraction methods and as such the claims have been interpreted with respect to the quantities obtained (ug/kg or ppm) and not whether the prior states that the Liken –Nickerson method was specifically utilized.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3, 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Blank et al. "Aroma Impact Compounds of Arabica and Robusta Coffee. Qualitative and Quantitative Investigations" ASIC 14^e Colloque 1991.**

Regarding Claims 1-3, 11-17: Blank discloses roast and ground Arabica coffee containing linalool and discloses a comparison to Robusta coffee which does not contain the linalool [Tables 3 and 4]. Although, Blank does not disclose an amount of linalool expressed in ug/kg as in the instant claims, based on Applicant's own admissions, Examiner takes the position that the amount of linalool in the instant claims mimics the amounts found in roasted and ground Arabica coffee. Examiner's position is based on

Applicant's disclosure that the amount of linalool added to the coffee product of the invention mimics high quality coffee (10/562394 Request For Reconsideration pages 5-6) and further discloses Arabica coffee as a high quality variant whose chemical signature is a "higher level of linalool" than that found in more common coffees and that by adding linalool a higher quality taste can be duplicated in common coffees [Norton Declaration ¶12]. Applicant has suggested in their declaration that Arabica coffee has a higher level of linalool (see paragraph 12 of the declaration submitted 03/19/2009) but did not disclose what the higher level of linalool in the Arabica coffee is. Blank clearly teaches that linalool levels are significantly higher than other coffees and is considered to meet the limitations of the claims absent a showing otherwise.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7, 9, 11-17 20, 22-24, 26, 28-33, 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992).

7. **Regarding Claims 4, 9, 26, 33:** Sidoti discloses the process of adding linalool to coffee to enhance the flavor of coffee [col. 1, lines 38-40] but does not explicitly disclose the process where the substance is added to roast or ground coffee having at least 25% higher level of linalool than naturally occurring level of linalool in the whole bean or ground coffee or the specific amounts in ug/kg. However, Boniello discloses a method for adding 50 ppm - 400 ppm diacetyl to a roast and ground coffee where the brew will produce a coffee containing 0.1 to 1.5 ppm on an as consumed basis [col. 4, lines 63-68 and 43-46].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti and Boniello before him or her to modify the addition of linalool to coffee in Sidoti to include the process in Boniello because both

linalool and diacetyl are flavor compounds naturally occurring in coffee that can be added to augment flavors where the flavors are present but deficient or there is a desire to further enhance them [Sidoti col. 1, lines 35-37; Boniello col. 1, lines 27-32]. It is well known in the art that diacetyl imparts a buttery flavor [Boniello col. 4, lines 62-63] and that linalool generally enhances the flavor of coffee [Sidoti col. 1, lines 38-40]. Therefore it would have been obvious to combine the above references because linalool is a flavoring agent much like diacetyl and one wishing to enhance the flavor of coffee would apply the linalool composition to roast and ground coffee in order to brew coffee having an enhanced flavor.

Further although specific amounts of linalool added to the coffee beverage are not recited, "Knowing that an additive will cause a certain result (in this case, linalool causes change in flavoring), one would specifically measure the result and control the amount of said additive added there to in relation to the amount of result (degree of flavoring in this case) as desired." *In re Skoner*, 186 USPQ 80

Regarding Claim 5: Sidoti discloses the process of adding linalool to coffee to enhance the flavor of coffee but does not disclose the process where the substance is added to roast or ground coffee having at least 50% higher level of linalool than naturally occurring level of linalool in the whole bean or ground coffee. Boniello discloses a method for adding 50 ppm - 400 ppm of diacetyl to a roast and ground coffee where the brew will produce a coffee containing 0.1 to 1.5 ppm on an as consumed basis [col. 4, lines 63-68 and 43-46].

See Reasoning under "Regarding Claim 4".

Regarding Claim 6: Sidoti discloses the process of adding linalool to coffee to enhance the flavor of coffee but does not disclose the process where the substance is added to roast or ground coffee having at least 100% higher level of linalool than naturally occurring level of linalool in the whole bean or ground coffee. Boniello discloses a method for adding 50 ppm - 400 ppm of diacetyl to a roast and ground coffee where the brew will produce a coffee containing 0.1 to 1.5 ppm on an as consumed basis [col. 4, lines 63-68 and 43-46].

See Reasoning under "Regarding Claim 4".

Regarding Claim 7: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose adding the linalool to whole bean coffee. However, Boniello discloses adding diacetyl flavoring agent to green coffee [col. 4, lines 38-40] where examiner has interpreted green coffee as whole bean coffee.

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti and Boniello before him or her to add linalool to whole bean coffee because consumers often purchase coffee in whole bean form in order to help retain the flavoring of the coffee. Further, Sidoti acknowledges that advancements in "keeping techniques" are due to the average consumers' sensory perceptions and that packaging processes and preservatives etc... are factors in causing flavor deficiency in food products [col. 1, lines 26-34]. Therefore it would have been obvious to add linalool to whole bean coffee. The prior art does not explicitly disclose whole bean coffee. However, as Boniello uses like materials in a like manner as claimed, it would therefore be expected that the whole green coffee or the roasted and ground

coffee will have the same characteristics claimed, particularly where the flavoring agent is merely coating the product, absence a showing of unexpected results.

Regarding Claim 20, 22-24: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose a method for making a coffee flavored beverage where linalool is added to liquid coffee extract, where the coffee solids in the coffee extract have linalool levels of less than 2,000 ug/kg, 3,000 ug/kg, 4,000 ug/kg, 10,000 ug/kg respectively in order to produce a final coffee product having at least 2,000 ug/kg linalool. However, Boniello discloses a method of adding a flavoring agent to a liquid coffee extract [col. 4, lines 53-57]. The final product contained .7 ppm on an as consumed basis.

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti and Boniello before him or her to add linalool to liquid coffee extract because liquid coffee extract is a precursor for making instant coffee and therefore it would have been advantageous to add it the coffee before drying as an alternative method. Further regarding coffee having reduced level of linalool. It that linalool presence in coffee is dependent on coffee variety and "keeping techniques". It would have been obvious to one of ordinary skill that adding a liquid coffee extract containing linalool to coffee solids having reduced levels of linalool would result in a coffee product having increased levels of linalool.

However, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the linalool desired in the final product for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272.

Further, although specific amounts of linalool added to the coffee beverage are not recited, "Knowing that an additive will cause a certain result (in this case, linalool causes change in flavoring), one would specifically measure the result and control the amount of said additive added there to in relation to the amount of result (degree of flavoring in this case) as desired." *In re Skoner*, 186 USPQ 80.

Regarding Claims 28- 31: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose where linalool is added to increase its concentration to at least 6,000 ug/kg, at least 8,000 ug/kg, at least 10,000 ug/kg, at least 16,000 ug/kg whole bean or ground coffee respectively. Boniello discloses a roast and ground coffee composition where a flavorant, diacetyl, is added in the amount of 50 ppm to 400 ppm [col. 4, lines 63-65] but does not disclose linalool as the coffee flavorant.

See Reasoning under Claim 4.

However, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the linalool desired in the final product for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272.

Further, although specific amounts of linalool added to the coffee beverage are not recited, "Knowing that an additive will cause a certain result (in this case, linalool causes change in flavoring), one would specifically measure the result and control the amount of said additive added there to in relation to the amount of result (degree of flavoring in this case) as desired." *In re Skoner*, 186 USPQ 80.

Regarding Claim 32: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose where the linalool is added to whole bean. However, Boniello discloses adding diacetyl flavoring agent to green coffee [col. 4, lines 38-40] where examiner has interpreted green coffee as whole bean coffee.

See reasoning under “Regarding Claim 7”.

Regarding claim 41: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose a coffee composition comprising roast whole bean coffee coated with linalool. However, Boniello discloses mixing the flavoring agent with green coffee [col. 1, lines 19-21] and roast and ground coffee [col. 4, lines 62-63].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti and Boniello before him or her to add linalool to whole bean coffee because consumers often purchase coffee in whole bean form in order to help retain the flavoring of the coffee. Further, Sidoti acknowledges that advancements in “keeping techniques” are due to the average consumers’ sensory perceptions and that packaging process and preservatives etc... are factors in the flavor deficiency in food products [col. 1, lines 26-34]. Therefore it would have been obvious to add linalool to whole bean coffee. The prior art does not explicitly disclose roasted whole bean coffee. However, as Boniello uses like materials in a like manner as claimed, it would therefore be expected that the whole green coffee or the roasted and ground coffee will have the same characteristics claimed, particularly where the flavoring agent is merely coating the product, absence a showing of unexpected results.

Regarding Claims 38 - 40: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose a ready to drink beverage having regular or

concentrated strength liquid coffee comprising linalool in an amount of at least 2000 ug/kg, 4,000 ug/kg, and 10,000 ug/kg., of soluble coffee solids present in the liquid coffee. Boniello discloses a ready to drink regular strength coffee brew [col. 4, lines 65-68] as discussed above.

See reasoning under "Regarding Claim 7".

Regarding the amount of linalool to be added to the coffee composition, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the amount of linalool desired for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272.

8. Claims 8,10,18,27,34,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992) and Marmo et al. (US 4,311,720).

Regarding Claims 8 and 10: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose dissolving the flavorant in an oil carrier. Boniello discloses adding flavor to coffee as discussed above. However, Marmo discloses a flavor oil that is dispersed in a carrier [col. 5, lines 38-40].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello and Marmo before him or her to modify the application of the flavoring to the unprocessed bean in Boniello to incorporate a flavor oil carrier because although linalool has good flavor retention in heated beverages, the carrier can help maintain and control the release of the flavor agent [Marmo col. 6, lines 15-26, 38-43].

Regarding Claim 18: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose linalool in encapsulated form. Boniello discloses adding flavor to coffee as discussed above. However, Marmo teaches an encapsulated flavorant [col. 2, 5-10].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello, and Marmo before him or her to modify the application of the linalool to the dry soluble coffee product in Boniello to incorporate an encapsulated flavorant because although linalool has good flavor retention, Marmo suggests that it may be advantageous to encapsulate flavorants for use in consumable products consumed at greater than ambient temperatures [col.2, lines 15-20] such as hot beverages.

Regarding Claim 27: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose linalool in encapsulated form. Boniello discloses adding flavor to coffee as discussed above. However, Marmo teaches an encapsulated flavorant [col. 2, 5-10].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello, and Marmo before him or her to modify the application of the flavoring to the dry soluble coffee product in Boniello to incorporate an encapsulated flavorant because although linalool has good flavor retention, Marmo suggests that it may be advantageous to encapsulate flavorants for use in consumable products consumed at greater than ambient temperatures [col. 2, lines 15-20] such as hot beverages.

Regarding Claim 34: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose a coffee composition comprising roast and ground coffee and encapsulated linalool. However, Boniello discloses a roast and ground coffee composition as discussed above and Marmo teaches an encapsulated linalool as discussed above.

See Reasoning under Claim 27.

Regarding Claim 36: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose a method for preparing coffee at elevated level by infusing green coffee with liquid form of linalool in a carrier consisting of polar or non polar solvents. However, Boniello discloses green coffee infused with liquid flavoring agent [col.1, lines 19-21] but does not disclose linalool in a carrier consisting of polar or non polar solvents. However, Marmo discloses a flavor agent that is dispersed in polar carriers such as alcohol and water [col. 6, lines 54-59].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello and Marmo and before him or her to modify the application of the flavoring to the unprocessed bean in Boniello to incorporate a flavor oil carrier and to further disperse the agent into a polar solvent such as water because although linalool has good flavor retention in heated beverages, the carrier can help maintain and control the release of the flavor agent [Marmo col. 6, lines 15-26] further, coffee compositions are generally composed of water and coffee substrates therefore it would have been obvious to use water as a carrier for the flavor oils.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992) in view of Sivetz “Coffee Technology” AVI Publishing Company 1983 pg 496.

Regarding Claim 21: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose drying a coffee extract to a dry soluble form. However, Boniello discloses adding a flavoring agent to a coffee extract and then drying to form a dry soluble coffee product [col. 4, lines 53-58]. It is well known in the art that drying coffee extract produces instant coffee [Sivetz pg 496].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti and Boniello before him or her to modify a dry coffee extract as taught by Sivetz in order to create an instant coffee, where the speed of preparing instant coffee is appealing to consumers.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085) in view of Boniello et al. (US 4,867,992) and Parliment (US 4,041,185).

Regarding Claim 25: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose adding powdered linalool to the liquid coffee extract followed by drying to form a dry final soluble coffee product. Boniello discloses as discussed above. However, Parliment teaches optionally using dried flavoring agents [col. 4, lines 55-57].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello, and Parliment before him or her to modify the phase of the flavoring agent to include a solid phase because Parliment

primarily discloses a system where the components are in liquid form but it also teaches that the system components when used in a dried form may be used by any method that does not cause degradation of the components [col. 4, lines 55-60].

11. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085), in view of Boniello et al (US 4, 867, 992) and Balakrishnan (US 6,299,926).

Regarding Claim 37: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose heating green coffee and linalool between 20°C and 95°C for 15 minutes to 24 hours. Boniello discloses as discussed above but do not disclose the time and temperature in the instant claims. However, Balakrishnan discloses a flavor composition where the flavoring agent is added between 10°C – 45°C for 10 minutes to 24 hours [col. 2, lines 39-43].

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello, and Balakrishnan before him or her to modify the method to incorporate a time and temperature for the addition of the linalool to the green coffee because such time and temperature is optimal for the improvement of the aroma of the product [col. 1, lines 65-67].

Further regarding time and temperature, one having ordinary skill in the art at the time the invention was made would have considered the invention to have been obvious because the compositional proportions taught by Balakrishnan overlap the instantly claimed proportions and therefore are considered to establish a prima facie case of obviousness. *In re Malagari* 182 USPQ 549,553.

12. Claims 19 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992), Marmo et al. (US 4,311,720), and Steinke (US 4,698,264).

Regarding Claims 19 and 35: Sidoti discloses the process of adding linalool to coffee but does not explicitly disclose maltodextrin, Gum Arabic, and tricalcium phosphate to encapsulate flavor agents. Boniello and Marmo disclose as discussed above. However, Steinke discloses maltodextrin [col.2, lines 35-37], Gum Arabic [col. 6, lines 15-19], and tricalcium phosphate [col. 3, lines 33-35] to encapsulate flavor agents.

At the time of the invention, it would have been obvious to one of ordinary skill in the art having the teachings of Sidoti, Boniello, Marmo, and Steinke before him or her, to modify the encapsulation form to include the maltodextrin, Gum Arabic and tricalcium phosphate because Steinke utilizes agents similar to those used in Marmo. For example, Marmo uses dextrin, gum acacia, and modified food starch as the encapsulating agents [col. 17, lines 41-43]. Maltodextrin and dextrin are commonly used as bulking agents [Steinke col. 3, lines 47-49]. The purpose of the maltodextrin is to initiate the release of the flavoring agent [Steinke col.2, lines 45-46]. The purpose of the tricalcium phosphate is to prolong the release of the flavoring agent [Steinke col. 2, lines 47-49]. The gum arabic works to aid in the entrapment of oils [Steinke col. 6, lines 15-19]. Therefore, it would have been obvious to one of ordinary skill in the art to utilize the encapsulating agents in Steinke to encapsulate the flavoring agent linalool because a similar group of agents is used in Marmo to encapsulate linalool.

Response to Arguments

13. Applicant's arguments see pages 1 -9 of Request For Reconsideration filed 3/19/09 with respect to **claims 1-41** under Boniello et al (US 4, 867, 992) in view of Marmo et al. (US 4,311,720) and in further view of Steinke (US 4,698,264) Parliment (US 4,041,185) Balakrishnan (US 6,299,926) have been considered but are moot in view of the new ground(s) of rejection. **Claims 1-3, 11-17** are newly rejected under Blank et al. "Aroma Impact Compounds of Arabica and Robusta Coffee. Qualitative and Quantitative Investigations" ASIC 14^e Colloque 1991; **Claims 4-7, 9, 20,21, 22-24, 26, 28-33, 38-41** are newly rejected over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992); **Claims 8,10,18,27,34,36** are newly rejected over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992) and Marmo et al. (US 4,311,720); **Claim 25** is newly rejected over Sidoti et al. (US 4,590,085) in view of Boniello et al. (US 4,867,992) and Parliment (US 4,041,185); **Claim 37** is newly rejected over Sidoti et al. (US 4,590,085), in view of Boniello et al (US 4, 867, 992) and Balakrishnan (US 6,299,926). **Claims 19 and 35** are newly rejected over Sidoti et al. (US 4,590,085) in view of Boniello (US 4,867,992), Marmo et al. (US 4,311,720), and Steinke (US 4,698,264).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FELICIA C. KING whose telephone number is (571)270-3733. The examiner can normally be reached on Mon- Thu 7:30 a.m.- 5:00 p.m.; Fri 7:30 a.m. - 4:00 p.m. alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FELICIA C KING/
Examiner, Art Unit 1794

/JENNIFER MCNEIL/
Supervisory Patent Examiner, Art Unit 1794